

REMARKS

Claims 1-25 and 27-31 are pending in this application, of which Claims 1, 7, 15, 21, 24, 27, and 30 are independent claims. Claims 1, 7, 15, 21, 24, 27, and 30 were previously amended and claims 26 and 32 were previously cancelled. Claims 25 and 31 have been amended by way of the present amendment. Reconsideration of this application is requested in view of the following remarks.

In the outstanding Office Action, claims 25 and 31 were objected to due to informalities; claims 1-6, 15-18, 21-24 and 27-30 were provisionally rejected on the grounds of nonstatutory obviousness-type double-patenting over co-pending U.S. Patent Application No. 10/821,143; claims 1-6, 15-18, 21-24 and 27-30 were provisionally rejected on the grounds of nonstatutory obviousness-type double-patenting over co-pending U.S. Patent Application No. 10/820,961. Reconsideration of this application is requested in view of the following remarks.

Claim Objections

Claims 25 and 31 were objected to due to informalities. Claims 25 and 31 have been amended in accordance with the suggestion in the outstanding Office Action to clarify the claims. Therefore, it is respectfully submitted that the outstanding rejection is moot and respectfully requested that the outstanding objection be withdrawn.

Double Patenting Rejection

Claims 1-6, 15-18, 21-24 and 27-30 were provisionally rejected on the grounds of nonstatutory obviousness-type double-patenting over copending U.S. Patent Application No. 10/821,143; and claims 1-6, 15-18, 21-24 and 27-30 were provisionally rejected on the grounds of nonstatutory obviousness-type double-patenting over copending U.S. Patent Application No. 10/820,961. Reconsideration of this application is requested in view of the following remarks.

As noted in the outstanding Office Action, a timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) may be used to overcome the above-discussed non-statutory double patenting rejection provided the conflicting application or patent is shown to be commonly owned with the present application. (See 37 C.F.R. 1.130(b)). To that end, as discussed below a terminal disclaimer and appropriate fees are filed herewith to overcome the nonstatutory double patenting rejection and thus, it is respectfully submitted that, since the outstanding rejections have been overcome by the terminal disclaimer, the application is now in condition for allowance.

Terminal Disclaimer and Statement of Common Ownership

A terminal disclaimer is filed herewith and the statement below establishes the common ownership.

As noted in the outstanding Office Action, the above-discussed rejection can be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an assignment to the same person. (See 35 U.S.C. 103(c) and MPEP 706.02(1)(1) and 706.02(1)(2)).

The present application (U.S. Application No. 10/821,038) and co-pending U.S. Patent Application Serial Nos. 10/821,143 and 10/820,961 were, at the time the invention of the present application was made, commonly owned by the same party, Epogy Communications, Inc. This is evidenced by the assignment to Epogy Communications, Inc., executed prior to the filing date of each application by the sole inventor who is common to each of the applications, Shaolin Li, which is recorded at **Reel 017020** and **Frame 0026** for each of US 10/821,038, US 10/821,143 and US 10/820, 961. Therefore, in view of the claim amendments, the terminal disclaimer filed herewith and the common ownership discussed above, it is respectfully submitted that the outstanding objections and rejections of the claims have been overcome and that the application is now in condition for allowance.

Conclusion

Applicant may not have refuted any or all characterizations of either the claims or the prior art as found in the Office Action. However, the lack of such refutations is not intended to act as concurrence with such characterizations or waiver of the opportunity to make such refutations in the future.

Applicant respectfully submits that the above amendments and arguments fully address all grounds of rejection in the Office Action. In view of this, Applicant now respectfully requests prompt and favorable consideration of this response, reconsideration of this application, and withdrawal of all rejections.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

While it is not believed that any fees are due other than those that may be noted in an accompanying paper, should any fees be due, please charge such fees to our Deposit Account No. 22-0185, to which the undersigned is authorized to charge, under Order No. 27592-00275-US5.

Respectfully submitted,

/Myron Keith Wyche/

Date: July 28, 2008

Myron Keith Wyche

Registration No. 47,341
Connolly Bove Lodge & Hutz LLP
1875 Eye Street NW, Suite 1100
Washington, DC 20006
Telephone: 202-331-7111
Direct Dial: 202-572-0322
Facsimile: 202-293-6229

Application No.: 10/821,038
Amendment dated: July 28, 2008
Reply to Office Action of April 28, 2008

Docket No.: 27592-00275-US5